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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL LUTHER MILLER,

Defendant and Appellant.

C032659

(Super. Ct. No. 981746)

Defendant Michael Luther Miller was convicted by a jury of false imprisonment by violence or menace (Pen. Code, §§ 236, 237) and was granted three years probation conditioned on, among other things, his serving 120 days in the county jail.

Defendant contends on appeal that the trial court erred in refusing to unseal the jurors' personal identifying information after trial. We shall affirm the judgment.

Code of Civil Procedure section 237, subdivision (b), requires a prima facie showing of good cause for access to jurors' personal identifying information, and defendant sought

this information in order to contact jurors about possible misconduct: A juror insisted during deliberations that the victim's testimony be disregarded as untrustworthy, with the result that other jurors purportedly convicted defendant on the basis of his false imprisonment of a person not named in the charge. However, a juror's insistence that a witness's testimony not be considered on the ground of untrustworthiness is not misconduct, and Evidence Code section 1150, subdivision (a), bars the admission of evidence concerning the "mental processes" of jurors in reaching a verdict, thereby barring evidence of the jury's reasoning in convicting defendant. Accordingly, defendant did not show good cause, and the trial court did not abuse its discretion in refusing to unseal the jurors' identifying information.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. *Prosecution Case*

Teddy Evans (Teddy) testified that one morning he and his brother, Jack Evans (Jack), drove to a campground near Applegate Lake in Siskiyou County to retrieve Jack's van, which had broken down.¹ Teddy had called for a tow truck; the Evans brothers met the tow truck driver at a dam nearby; and they all arrived at the campground together.

¹ From time to time, we shall refer to the Evans brothers by their first names, not out of any disrespect but for ease of reference and clarity.

At the camp, the Evans brothers encountered defendant who was carrying a shotgun. They noticed that a rear tire of the van had a two-inch puncture hole. Defendant said that he had punctured the tire because he did not want the van to go anywhere, and told everyone not to move. Defendant pointed the gun at Teddy and then at Jack. Defendant was red-faced, yelling, and screaming profanities. Feeling threatened when defendant pointed the gun at him, Teddy felt that he could not leave the camp as long as defendant held the shotgun.

Defendant carried the shotgun for approximately two-and-a-half to three hours (except when he handed it to a friend for a few seconds). At one point, while Jack was changing the tire, Teddy said that he would go to the top of the hill to call the police. But defendant pointed the gun and told him that he was not going anywhere and that he would keep Teddy from leaving.

Gerald Stuart (Stuart), the tow truck driver, testified that after he followed the brothers to the campground and parked near the van, defendant walked up carrying a gun and said, "Don't anybody get out of the vehicles. The cops are on the way." Stuart, too, was concerned and fearful. He stayed because defendant had a gun and said he could not leave. Nonetheless, Stuart did not see defendant point the gun at the Evans brothers or at him. A few minutes later, another man approached the tow truck, said no shots would be fired, and asked Stuart to remain as a witness. Stuart instead drove away, having remained at the campground for about 15 minutes, and called his office, which contacted law enforcement.

Sheriff's deputies testified that they were dispatched at approximately 10:00 or 10:30 a.m. to the campground on the report of a man holding two people at gunpoint. They arrived about 1:00 p.m. They spoke to Stuart, who was parked at the entrance of the campground and who said that a man was holding the Evans brothers with a shotgun. A short way from the campground, they then met Teddy (who seemed shaken but not panicked). When a deputy met defendant, he was not armed. Teddy testified that before law enforcement officers arrived, he heard police radios nearby and that defendant disappeared momentarily over a river bank and reappeared without his shotgun. He then told Teddy he could leave but that Jack had to stay. According to a deputy sheriff, defendant stated that he had held the Evans brothers at bay with a shotgun because he suspected them of stealing items from his vehicle. The deputies found a loaded shotgun in the campground. A deputy testifying as an expert witness later offered the opinion that a shotgun blast had created the hole in the tire of Jack's van.

B. *The Defense Case*

Defendant testified that he had been camping at the site for two-and-a-half weeks when he went to attend a concert in Washington state over the Labor Day weekend with his campmates, believing that friends would watch their property. Jack Evans and his wife had been camping nearby.

When defendant returned at night, he discovered that many items had been stolen. One of defendant's friends, Mitchell Walker, testified that when they arrived back at the camp, he

noticed a broken-down green van, which belonged to "Mr. Evans" and which was next to their camp. Their belongings, including their tents, had been taken, according to Mr. Walker.

Defendant sent a friend to call the police the following morning. The Evans brothers and the tow truck arrived shortly afterwards. Defendant had heard of an earlier incident of threatened violence involving the Evans brothers, so he got his shotgun and approached the tow truck with the gun cradled in his arms. He told the men that the van was not to be moved because the police were coming to investigate a theft. Defendant denied pointing the shotgun at anyone or giving any instructions restricting the Evanses' movements. He carried the shotgun for about 25 minutes and put it in its case when he felt safe. Indeed, defendant took a nap while waiting for law enforcement and was awakened by the arrival of sheriff's deputies. He took one deputy to the area where his shotgun was in its case, leaning against a tree.

C. Defendant's Conviction

Defendant was charged with false imprisonment of Teddy Evans by violence or menace (Pen. Code, §§ 236, 237, count I); shooting at an unoccupied vehicle (Pen. Code, § 247, subd. (b), count II); and exhibiting a deadly weapon in a rude, angry, or threatening manner (Pen. Code, § 417, subd. (a)(1), count III). The jury convicted defendant of false imprisonment (count I), but acquitted him of the other charges.

D. Defendant's Post-Trial Motion

Pursuant to Code of Civil Procedure section 237, subdivision (b),² defendant filed a post-trial motion to unseal the jurors'

² Code of Civil Procedure section 237, subdivision (a)(2), provides that after a jury verdict in a criminal case, the personal identifying information of the jurors (names, addresses and telephone numbers) shall be sealed pending further court order. The trial court followed this procedure. Code of Civil Procedure section 237, provides, in relevant part, the following procedure for unsealing the jurors' personal information:

"(b) Any person may petition the court for access to these records. The petition shall be supported by a declaration that includes facts sufficient to establish good cause for the release of the juror's personal identifying information. The court shall set the matter for hearing if the petition and supporting declaration establish a prima facie showing of good cause for the release of the personal juror identifying information, but shall not set the matter for hearing if there is a showing on the record of facts that establish a compelling interest against disclosure. A compelling interest includes, but is not limited to, protecting jurors from threats or danger of physical harm. If the court does not set the matter for hearing, the court shall by minute order set forth the reasons and make express findings either of a lack of prima facie showing of good cause or the presence of a compelling interest against disclosure.

"(c) If a hearing is set pursuant to subdivision (b), the petitioner shall provide notice of the petition and the time and place of the hearing Any affected former juror may appear in person, in writing, by telephone, or by counsel to protest the granting of the petition. . . .

"(d) After the hearing, the records shall be made available as requested in the petition, unless a former juror's protest to the granting of the petition is sustained. The court shall sustain the protest of the former juror if, in the discretion of the court, the petitioner fails to show good cause, the record establishes the presence of a compelling interest against disclosure as defined in subdivision (b), or the juror is unwilling to be contacted by the petitioner. . . . The court may require the person to whom disclosure is made, or his or her agent or employee, to agree not to divulge jurors' identities or identifying information to others; the court may otherwise limit disclosure in any manner it deems appropriate."

personal identifying information in order to contact them concerning the possibility that the jury's guilty verdict was based on detention of the tow truck driver, Stuart, rather than Teddy.

Defense counsel supported the petition with a declaration that offered the following circumstances to justify access to the requested information:

"2. After the verdict of judgment was given . . . I contacted at least three (3) jurors in the hallway immediately outside [the trial department]. . . .

"3. I first talked with a juror whom I believe is Mrs. [M.]. Mrs. [M.] told me that she was the last hold-out juror on Count I (apparently the vote was 11-1 for guilt). She stated she didn't believe the testimony of the sole victim, Teddy Evans. In fact, she insisted that the jurors disregard the testimony of Teddy Evans. She stated that the jurors set aside the testimony of Teddy Evans and considered what evidence was left remaining.

"4. Mrs. [M.] stated that the ONLY reason she convicted the defendant on Count I was because she believed that the tow truck driver, . . . Stuart, had been detained against his will. She stated that she came to this conclusion at the very end of their (the jurors' deliberations) [sic].

"5. I joined a conversation with juror Mr. [D.] and another female juror whom I believe is Mrs. [E.]. This conversation was taking place with these jurors and [Deputy District Attorney]

Tina Chenevare [sic] and another female representative of the [District Attorney] office.

"6. During this conversation, Mr. [D.] and Mrs. [E.] stated that they set aside the testimony of Teddy Evans at the insistence of Mrs. [M.]. They stated that some jurors believed Teddy Evan's [sic] statement and others did not, but to make the deliberations go easier they set his testimony aside (apparently Mrs. [M.] was adamant that Teddy Evan's [sic] testimony was to be mistrusted). They thereafter looked at the remaining testimony and determined that the tow truck driver, . . . Stuart, had been held against his will.

"7. I tried to clarify the statements from Mr. [D.] and Mrs. [E.]. I asked them if they found the defendant guilty because they believed that the tow truck driver, . . . **STUART**, had been falsely imprisoned. They both answered yes, without hesitation. In fact, because Mr. Miller [the defendant] was present, they both seemed to take the extra time to explain to him why they voted for guilt. Mr. Miller stated that the tow truck driver was only at the camp site for a few minutes. However, both of the jurors stated that it didn't matter to them whether he was detained for a few minutes and longer, the fact was he felt restrained and was frightened."

Counsel concluded that the jurors had convicted defendant for imprisoning Stuart, not the "sole victim," Teddy, which rendered the verdict "unlawful." He argued that juror personal identifying information must be unsealed "to determine if [the jury] found defendant guilty because of Teddy Evans, . . . Stuart

or a combination of the two" and "[a]n interview with each juror is the only way this verdict can be tested"

The prosecution filed a motion to strike and a response to the petition, arguing primarily that the evidence that the defendant offered in support of, and sought by, his petition was inadmissible under Evidence Code section 1150, subdivision (a).³ The prosecutor, who had tried the case and had also talked with the two jurors (Mr. D. and Mrs. E.), filed a declaration that disputed defense counsel's version of the jurors' statements. The prosecutor stated that they said the tow truck driver corroborated the victim's account and so convinced the doubting juror: "The jurors pointed to the testimony of the tow truck driver as additional credible evidence that established the elements of the crime of false imprisonment, above and beyond the testimony of Teddy Evans. All of the jurors found the tow truck driver to be a very credible witness. They also found his testimony to corroborate the testimony of Teddy Evans and some of the testimony of the defendant." According to the prosecutor, after that discussion, Ms. M. agreed that defendant was guilty of false imprisonment.

³ Evidence Code section 1150, subdivision (a), provides: "Upon an inquiry as to the validity of a verdict, any otherwise admissible evidence may be received as to statements made, or conduct, conditions, or events occurring, either within or without the jury room, of such a character as is likely to have influenced the verdict improperly. No evidence is admissible to show the effect of such statement, conduct, condition, or event upon a juror either in influencing him to assent to or dissent from the verdict or concerning the mental processes by which it was determined."

The prosecutor's declaration also included the following description of an exchange between defendant and the jurors when he and defense counsel joined the jurors' ongoing discussion with the prosecutor: "The defendant became visibly upset, raised his voice, and started arguing with the foreman and the female juror when they mentioned the tow truck driver's testimony. The defendant remarked that the tow truck driver had only been there for a few minutes, and that he did not see everything that went on. [Defense counsel] admonished the defendant after he raised his voice in response to the foreman's statements. [¶] The foreman immediately responded, stating that the length of time of the false imprisonment did not matter to them. The foreman also said that they found the statements in closing by [defense counsel] about various discrepancies to be irrelevant. [¶] . . . [¶] Due to the fact that the defendant was angry and upset with the foreman and the female juror, the jurors quietly told me that they wanted to remain in the building until defendant departed. They watched the defendant and his attorney go up the stairs, and waited. Once they assured themselves that the defendant was gone, the foreman and female juror left the courthouse."

After a hearing, the trial court denied the petition, making "the express finding that there is a lack of a prima facie showing of good cause."⁴ The judge stated that Evidence Code

⁴ The hearing on the petition was held on the day set to pronounce judgment and sentence, which was also the last day to move for a new trial. (Pen. Code, §§ 1182, 1191, 1202.) Defense counsel informed the court that he wanted the court to find good cause for unsealing the juror information, to set a hearing for
(Continued.)

section 1150, subdivision (a), permits jurors to testify only to "overt acts; that is, such statements, conduct, condition[s] or events as are open to sight, hearing and the other senses and thus subject to [corroboration], but not -- may not testify to the subjective reasoning processes of the individual juror.'" The court found that the only "overt act" of claimed misconduct in defense counsel's declaration was the one juror's statement that insisted that the other jurors disregard the victim's testimony. The court ruled that this statement was not misconduct: "[The juror] stated that she did not believe the testimony of the victim, Mr. Evans. That's a credibility issue. It is her right as a juror not to believe his testimony."

In the court's view, the remainder of the declaration concerned the reaction of other jurors to the juror's statement. The court accepted defense counsel's declaration as true, but nonetheless held that evidence on the subject would be inadmissible under Evidence Code section 1150: "I must accept the People's arguments under [Evidence Code section] 1150 that we just don't have a prima facie showing here of good cause, prima facie showing of overt acts by one of the jurors that would constitute misconduct. [¶] In other words, what [Mrs. M.] believed . . . [as] indicated in paragraph four [of defense counsel's declaration] is not admissible. [¶] [What the] other two jurors believed and their reasoning process and reaction to

objecting jurors, and to allow him to file a new trial motion at a later date. The trial court treated this request as an oral motion for a new trial and denied it. The latter ruling is not challenged on appeal.

her insistence that Mr. Evans'[s] testimony was not believable, how they reasoned from there under [Evidence Code section] 1150 I do not feel is admissible."

The court also did not agree that defendant had shown any misconduct in the reasoning of the jury in reaching a verdict: "[T]he fact that [these jurors] felt that . . . Stuart had been falsely imprisoned does not constitute juror misconduct. They may have very well believed that both Mr. Stuart and Mr. Evans were falsely imprisoned. They may have believed a number of things."

Finally, the trial judge made an express finding that a compelling interest against disclosure was established based on the prosecutor's declaration concerning the exchange between the defendant and the two jurors.

This appeal followed.

II. DISCUSSION

Defendant contends that the trial court erred in concluding that (1) he had failed to show good cause for access to the jurors' personal identifying information and (2) that a compelling reason existed to deny access to these records.

As defendant indicates, we review the trial court's rulings under Code of Civil Procedure section 237 for abuse of discretion. (See *People v. Jones* (1998) 17 Cal.4th 279, 317.) And where "a discretionary power is statutorily vested in the trial court, its exercise of that discretion 'must not be disturbed on appeal except on a showing that the court exercised

its discretion in an arbitrary, capricious or patently absurd manner that resulted in a manifest miscarriage of justice. [Citations.]' (*People v. Jordan* (1986) 42 Cal.3d 308, 316 [228 Cal.Rptr. 197, 721 P.2d 79].)" (*People v. Rodriguez* (1994) 8 Cal.4th 1060, 1124, original italics.) We find no such abuse of discretion here.

A. Prima Facie Showing of Good Cause

We find no abuse of discretion in the trial court's determination that defense counsel's declaration failed to make out a prima facie showing of good cause for the release of the jurors' personal identifying information because the declaration set forth neither misconduct nor admissible evidence of misconduct.

"In cases of a 'deliberative error' which appears to produce a mistaken or erroneous verdict, the result has almost invariably been to bar impeachment of the verdict." (*People v. Romero* (1982) 31 Cal.3d 685, 694.) "To grant a new trial in these circumstances would permit enterprising but dissatisfied litigants to cull the jurors' deliberations" and would undermine the "stability of verdicts." (*Id.* at p. 695.) Accordingly, Evidence Code section 1150 "'prevents one juror from upsetting a verdict of the whole jury by impugning his own or his fellow jurors' mental processes or reasons for assent or dissent. The only improper influences that may be proved under [Evidence Code] section 1150 to impeach a verdict, therefore, are those open to sight, hearing, and the other senses and thus subject to corroboration.'" (*Sanchez-Corea v. Bank of America* (1985)

38 Cal.3d 892, 910, quoting *People v. Hutchinson* (1969) 71 Cal.2d 342, 350.)

The defense counsel's declaration seeks to impugn the jurors' mental processes for bringing a guilty verdict, but fails to show any overt misconduct. According to the declaration, one juror, Mrs. M., "stated that she didn't believe the testimony of the sole victim, Teddy Evans," and "insisted that the jurors disregard the testimony of Teddy Evans." The trial court was correct that that statement did not constitute misconduct. Assessing the credibility of witnesses is the right and duty of the jury; a juror's statement that she did not believe a witness cannot constitute misconduct. (See CALJIC No. 2.20 ["You [the jury] are the sole judges of the believability of a witness and the weight to be given the testimony of each witness"].) Moreover, a juror's decision to discount the testimony of a witness implicates the juror's mental processes, precluding evidence on the subject under Evidence Code section 1150. (*In re Sassounian* (1995) 9 Cal.4th 535, 549, fn. 10 [juror's testimony that she had discounted inmate informant's testimony was "apparently inadmissible because it 'concern[ed]' her 'mental processes' (Evid. Code, § 1150, subd. (a))"].)

The remainder of counsel's declaration sets forth Mrs. M.'s reasoning in reaching her verdict and the reaction of other jurors to the holdout juror's disbelief of the victim's testimony -- that is, their decision not to consider it and their purported determination to convict defendant for detaining Stuart. These

statements go directly to the jurors' mental processes and are inadmissible.

Paragraph 4 of the declaration states that "Mrs. [M.] stated that the ONLY reason she convicted the defendant on Count I was because she believed that the tow truck driver . . . had been detained against his will." That goes to her reasoning process and is not admissible.

The next relevant paragraph of the declaration states that "Mr. [D.] and Mrs. [E.] stated that they set aside the testimony of Teddy Evans at the insistence of Mrs. [M.]" and "determined that the tow truck driver, . . . Stuart, had been held against his will." The declaration thus unmistakably describes the jurors' reasoning in convicting defendant. That inadmissible reasoning is described as a result of Mrs. M.'s statement that the victim was not credible, but Evidence Code section 1150, subdivision (a), provides that "[n]o evidence is admissible to show *the effect of* . . . [a] statement [like Mrs. M.'s] . . . upon a juror either in influencing him to assent to or dissent from the verdict or concerning the mental processes by which it was determined." (Italics added.)

Finally, the declaration stated that defense counsel asked Mr. [D.] and Mrs. [E.] "if they found the defendant guilty because they believed that the tow truck driver . . . had been falsely imprisoned" and "[t]hey both answered yes, without hesitation." That, too, entailed the jurors' reasoning process.

The parameters of Evidence Code section 1150 are well known: "While 'jurors may testify to "overt acts" -- that is, such

statements, conduct, conditions, or events as are "open to sight, hearing, and the other senses and thus subject to corroboration" -- [they] may not testify to "the subjective reasoning processes of the individual juror" [Citations, fn. omitted.] Likewise, evidence about a jury's 'subjective *collective* mental process purporting to show *how* the verdict was reached' is inadmissible to impeach a jury verdict. [Citation. . . .] Thus, juror declarations are inadmissible where, as here, they 'at most suggest "deliberative error" in the jury's collective mental process -- confusion, misunderstanding, and misinterpretation of the law.' [Citations.]" (*Mesecher v. County of San Diego* (1992) 9 Cal.App.4th 1677, 1683, citing, inter alia, *People v. Hutchison*, *supra*, 71 Cal.2d at p. 349-350, and *In re Stankewitz* (1985) 40 Cal.3d 391, 398, original italics.) Yet, that is all the defense declaration shows here -- at most, deliberative error in the jury's collective mental process.

Moreover, the mere fact that jurors may have communicated during deliberations the reasons for their vote or expressed a misunderstanding of the law does not permit consideration of such statements. "[T]he subjective quality of one juror's reasoning is not purged by the fact that another juror heard and remembers the verbalization of that reasoning.' To hold otherwise would destroy the rule . . . which clearly prohibits the upsetting of a jury verdict by assailing these subjective mental processes." (*Mesecher v. County of San Diego*, *supra*, 9 Cal.App.4th at pp. 1683-1684.) "[W]hen a juror in the course of deliberations gives the reasons for his or her vote, the words are simply a

verbal reflection of the juror's mental processes. Consideration of such a statement as evidence of those processes is barred by Evidence Code section 1150." (*People v. Hedgecock* (1990) 51 Cal.3d 395, 418-419; *People v. Sanchez* (1998) 62 Cal.App.4th 460, 475-476.)

In sum, Evidence Code section 1150 does not permit upsetting a jury verdict by examination of the jury's thinking to evaluate its correctness. (*Ford v. Bennacka* (1990) 226 Cal.App.3d 330, 333-334; *Mesecher v. County of San Diego, supra*, 9 Cal.App.4th at pp. 1683-1684.) Examples where courts have barred such evidence abound. The jury in *People v. Romero, supra*, 31 Cal.3d at page 695, thought that they had convicted defendant on one count of burglary while acquitting him on another, when in fact they did the opposite. The Court held that juror affidavits were inadmissible because "the purported error alleged here involved the subjective mental processes of the jurors" (31 Cal.3d at p. 695.) In *People v. Hall* (1980) 108 Cal.App.3d 373, 379, juror affidavits stating that they meant to convict defendant of misdemeanor, not felony, assault were properly excluded. Likewise, in *People v. Burnett* (1999) 71 Cal.App.4th 151, 182-183 and footnote 13, the court refused to consider juror affidavits that the defendant's conviction was based on a completely different weapon-brandishing incident than that shown at the preliminary hearing because "no evidence is admissible 'concerning the mental processes by which [the verdict] was determined' (Evid. Code, § 1150)." (Brackets added by *Burnett*.) And in *Mesecher v. County of San Diego, supra*, 9 Cal.App.4th at

pages 1682-1684, declarations concerning jurors' discussion of their definition of the elements of battery, which conflicted with the court's instruction, were held inadmissible under Evidence Code section 1150, subdivision (a). Accordingly, defense counsel's declaration in this case fails as an "offer of proof" of evidence of misconduct sufficient to justify the release of juror information.

Defendant nonetheless contends that "[w]hile admittedly the declaration may have contained information on the jury's deliberative process that would have been excluded from consideration at a subsequent new trial hearing, the declaration did provide significant statements made by jurors to other jurors which could have constituted misconduct. Specifically, there were statements to the effect that one juror told the other jurors that the alleged victim's testimony was not to be believed and that . . . they should look at the other evidence to determine if a crime had been committed. There was inferential evidence, from the statements from the jurors to defense counsel, that the jury agreed to look at the evidence to see if false imprisonment had been committed against anyone, and that they agreed to find [defendant] guilty on that basis." Defendant crystallizes this contention in his reply, arguing that "the jury misconduct was, in essence, the agreement of the jurors to . . . determine that Mr. Stuart was a victim, rather than the charged victim Evans, to support the guilty verdict."

A specific agreement to disregard applicable law is admissible evidence of misconduct. (See *Krouse v. Graham* (1977))

19 Cal.3d 59, 80-82 [remanding for reconsideration of new trial motion because declarations in support were inconclusive regarding agreement to inflate plaintiff's damages to compensate for attorney fees]; *People v. Sanchez, supra*, 62 Cal.App.4th at p. 476 ["We point out that this case does not involve the situation where the declarations established that the jurors agreed to disregard the court's instructions; in such a situation, the agreement does not implicate a juror's subjective reasoning process but itself constitutes misconduct"].)

But in this case, defense counsel's declaration contains no indication of any agreement to disregard the charges or the law. At best, an inference can be drawn that the jurors agreed to "set [Teddy's] testimony aside (apparently Mrs. [M.] was adamant that Teddy Evan's [sic] testimony was to be mistrusted)" and as a result, they "looked at the remaining testimony and determined that the tow truck driver, . . . Stuart, had been held against his will." An agreement to disregard untrustworthy testimony is simply not misconduct. (See *People v. Elkins* (1981)

123 Cal.App.3d 632, 638 [affidavits reporting disagreement among jurors whether defendant committed grand theft, burglary, or robbery inadmissible because they "merely show some confusion among the jury; there is no indication of any open discussion or agreement among the jurors evidencing a deliberate refusal to follow the court's instructions"].) And the jurors' purported agreement to disregard Teddy's testimony did not compel them to base their conviction on false imprisonment of Stuart. Instead, the jury had available other evidence that Teddy was detained by

the armed defendant: Stuart testified that the defendant, holding a shotgun, ordered Teddy (as well as Jack and Stuart) to remain in the campground, and a deputy testified that defendant admitted holding the Evans brothers at bay with a shotgun because of theft of items from his campsite. Accordingly, the jurors' purported agreement to disregard Teddy's testimony did not compel them to name someone else as the victim in order to convict defendant.

In sum, defense counsel's declaration fell far short of showing misconduct in the form an express agreement by jury members to disregard the charges. Further inquiry would impermissibly delve into the jury's reasoning process in reaching the verdict. (*Ford v. Bennacka*, *supra*, 226 Cal.App.3d at p. 335 ["further inquiry into the juror's asserted confusion and misunderstanding of relevant law would simply constitute improper probing of the juror's subjective mental processes"]. The procedure prescribed in Code of Civil Procedure section 237 should not be used to conduct an unwarranted "fishing expedition[]" for admissible evidence of misconduct when defendant's prima facie showing of good cause fails to establish that it is likely to exist. (*People v. Granish* (1996) 41 Cal.App.4th 1117, 1126-1127 [Code of Civil Procedure section 237 reflects juror protection concerns to safeguard against unwarranted fishing expeditions by parties hoping to uncover information to invalidate the jury's verdict].)

Having found that defendant failed to make out a prima facie case for unsealing the jurors' personal identifying information,

we need not reach the issue whether the trial court properly and separately based its decision on the existence of a compelling interest against disclosure.

III. DISPOSITION

The judgment is affirmed.

We concur: Kolkey, J.

Blease, Acting P.J.

Morrison, J.